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GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289			YEN, SYLING	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/723,687

Applicant(s)

PLOETZ ET AL.

Examiner

SYLING YEN

Art Unit

2166

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This action is responsive to the communication filed on December 23, 2008. Claims 9, 13-14 and 17 have been amended. Claim 11 has been cancelled. Claim 22 has been added. Claims 1-10 and 12-22 are pending.
2. Applicants' arguments filed December 23, 2008 have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-10 and 13-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Babula (US 2003/0061071 A1 hereinafter, "Babula").
5. With respect to claim 1,

Babula discloses **a system for automatically providing a user** (Babula paragraphs 0009 and 0039 e.g. The solutions may then be downloaded or transmitted automatically or upon request by the institution; An automated service unit 136 may also

be included in the service facility for automatically responding to certain service requests) **with at least one potential solution to a problem associated with a medical device** (Babula paragraph 0001 e.g. making problem and solution information readily available to a system user, for easily searching such information, and for transmitting search results to the diagnostic system, such as a scanner console or departmental PC where the user can then implement them), **comprising:**

a server system operable to receive data from a medical device (Babula paragraph 0015 e.g. FIG. 6 is an exemplary user interface page incorporated in the diagnostic system for placing service requests, and sending and receiving service data between the diagnostic system and a remote service facility), **the server system comprising:**

a first database containing historic data (Babula paragraphs 0009 and 0042 e.g. enables the operations personnel to submit a problem query to the service facility and to search the service facility library; historic log information) **for a plurality of medical devices** (Babula paragraphs 0024-0026 and Fig. 1 e.g. MRI system 14; CT system 16; ultrasound system 18) **related to the medical device;**

a second database containing a plurality of solutions to problems (Babula paragraph 0032 e.g. In the diagram of FIG. 2, operator workstations 86 are coupled to the processing system, as are remote databases or computers 88, including the problem-solution database. In addition, at least one local service database 102 is provided for accessing problem-solution information, verifying license and contract

arrangements, storing service record files, log files, and so forth) **associated with the plurality of medical devices; and**

an application service provider that directs the server system to use the data from the medical device to automatically search (Babula paragraph 0029 e.g. problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user) **the first database for historic data** (Babula paragraphs 0009 and 0042 e.g. enables the operations personnel to submit a problem query to the service facility and to search the service facility library; historic log information) **for the medical device and to automatically search** (Babula paragraph 0029 e.g. problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user) **the second database for at least one potential solution to a problem associated with the medical device using the data from the medical device** (Babula paragraph 0047 and Fig. 7 e.g. With the system state remaining at its condition just prior to accessing the service request page, image data files, log files, error files, and so forth may be identified, captured, stored and transmitted to the service facility for evaluation of potential problems in the diagnostic system) **and the historic data for the medical device** (Babula paragraph 0009 e.g. The service facility may transmit a list of available solutions to the operations personnel. The solutions may then be downloaded or transmitted automatically or upon request by the institution).

6. With respect to claim 2,

Babula further discloses **wherein the application service provider directs the server system to use the data from the medical device to automatically search the first database for keywords** (Babula paragraph 0008 e.g. entering key words and phrases for a query) **associated with the medical device.**

7. With respect to claim 3,

Babula further discloses **wherein the application service provider directs the server system to automatically search the second database for at least one potential solution to a problem associated with the medical device using the keywords** (Babula paragraph 0052 e.g. summarizes the key words and phrases that the user entered for the search as well as the number solutions located and the status of the search) **obtained from the first database and the data from the medical device.**

8. With respect to claim 4,

Babula further discloses **wherein the application service provider directs the server system to automatically perform the searches of the first database and the second database in response to a service request** (Babula paragraph 0032 e.g. processing system 84 receives and processes the service requests and data) **transmitted to the server system.**

9. With respect to claim 5,

Babula further discloses **wherein the service request is transmitted to the server system from the medical device** (Babula paragraph 0014 e.g. FIG. 6 is an

exemplary user interface page incorporated in the diagnostic system for placing service requests).

10. With respect to claim 6,

Babula further discloses **wherein the server system transmits** (Babula paragraph 0033 e.g. Such web pages permit problem queries and service requests to be composed and transmitted to the remote service facility, and facilitate the exchange of problem-solution data, messages) **the at least one potential solution to a problem associated with the medical device to the medical device.**

11. With respect to claim 7,

Babula further discloses **wherein the service request is transmitted to the server system from a remote computer** (Babula paragraph 0043 e.g. Such applications may permit the field service engineer to address service requests at the diagnostic system site, or remote from the site as required, and transmit service messages and updates via the remote field service unit).

12. With respect to claim 8,

Babula further discloses **wherein the server system transmits the at least one potential solution to a problem associated with the medical device to the remote computer** (Babula paragraph 0027 e.g. The management system may include a computer workstation or personal computer 72 coupled to the system controllers in an intranet configuration, in a file sharing configuration, a client/server arrangement, or in any other suitable manner. Moreover, management station 70 will typically include a monitor 74 for viewing system operational parameters, analyzing system utilization, and

exchanging service requests and data between the facility 20 and the service facility 22).

13. With respect to claim 9,

Babula further discloses **sending data from a remote** (Babula paragraph 0043 e.g. Such applications may permit the field service engineer to address service requests at the diagnostic system site, or remote from the site as required, and transmit service messages and updates via the remote field service unit) **medical device to a service center comprising a database of potential solutions to a problem associated with at least one remote medical device;**

automatically searching the database of potential solutions for at least one potential solution to a problem associated with the remote medical device in response to one of a request for service and the data from the remote medical device (Babula paragraph 0047 and Fig. 7 e.g. With the system state remaining at its condition just prior to accessing the service request page, image data files, log files, error files, and so forth may be identified, captured, stored and transmitted to the service facility for evaluation of potential problems in the diagnostic system), **comprising automatically searching a database comprising historic data for a plurality of medical devices related to the remote medical device for keywords** (Babula paragraph 0008 e.g. entering key words and phrases for a query) **associated with the remote medical device for use in searching the database of potential solutions; and**

sending the at least one potential solution to a problem associated with the remote medical device from the service center to a service provider via a communications network (Babula paragraph 0039 e.g. other network or communications schemes may be provided for enabling the service facility to communicate and exchange data and messages with diagnostic systems and remote service units).

14. With respect to claim 10,

Babula further discloses **wherein sending a request for service for service of a remote medical device comprises sending data to enable the service center to identify** (Babula paragraph 0055 e.g. This data preferably includes an identification of the system and/or system configuration to facilitate addressing the inquiry, such as to provide system-specific solutions) **the remote medical device from a plurality of remote medical devices.**

15. With respect to claim 13,

The limitations therein have substantially the same scope as claim 9 because claim 13 is a system claim for implementing those methods of claim 9. Therefore claim 13 is rejected for at least the same reasons as claim 9.

16. With respect to claim 14,

Babula further discloses **a processor-based device** (Babula paragraph 0044 e.g. Finally, the field service units may comprise personal computers or laptop computers of any suitable processor platform).

17. With respect to claim 15,

Babula further discloses **programming instructions to enable the processor-based device to automatically perform a search of a database of medical device data in response to the service request** (Babula paragraphs 0009 and 0042 e.g. enables the operations personnel to submit a problem query to the service facility and to search the service facility library; historic log information) **from the remote medical device.**

18. With respect to claim 16,

Babula further discloses **programming instructions to enable the processor-based device to transmit results of the search of the database of solutions to medical device problems to a service provider via the network** (Babula paragraph 0039 e.g. other network or communications schemes may be provided for enabling the service facility to communicate and exchange data and messages with diagnostic systems and remote service units).

19. With respect to claim 17,

The limitations therein have substantially the same scope as claim 14 because claim 17 is a computer program claim for implementing those steps of claim 14. Therefore claim 17 is rejected for at least the same reasons as claim 14.

20. With respect to claims 18-19,

The limitations therein have substantially the same scope as claims 1-3. Therefore claims 18-19 are rejected for at least the same reasons as claims 1-3.

21. With respect to claim 20,

Babula further discloses **comprising programming instructions to enable the service provider to store the results** (Babula paragraph 0001 e.g. transmitting search results to the diagnostic system, such as a scanner console or departmental PC where the user can then implement them) **of the keyword search of the second database at the medical device.**

22. With respect to claim 21,

Babula further discloses **providing the system with data to enable the system to identify a category** (Babula paragraphs 0023 and 0054 e.g. Service requests and data transmitted between the systems and the service facility include data for identifying the type and modality of the serviced system, as well as data specifically adapted to the system modality and model; the various service requests may be categorized by type, and associated with specific contract types, subscriber services, licenses, and so forth) **of medical devices that includes the specific medical device.**

23. With respect to claim 22,

Babula further discloses **wherein the application service provider directs the server system to automatically search the second database for at least one potential solution to a problem associated with the medical device** (Babula paragraph 0029 e.g. problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user) **using results obtained from the search of the first database and the data from the medical device** (Babula paragraph 0047 and Fig. 7 e.g. With the system state remaining at its condition just prior to accessing the service

request page, image data files, log files, error files, and so forth may be identified, captured, stored and transmitted to the service facility for evaluation of potential problems in the diagnostic system).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

26. Claim 12 is rejected under 35 U.S.C. 103(a) as being obvious by Babula as applied to claims 1-10 and 13-22 in view of Schramm-Apple et al (U.S. 2003/0217159 A1 hereinafter, "Schramm-Apple").

27. With respect to claim 12,

Although Babula substantially teaches the claimed invention, Babula does not explicitly indicate the capability of **sending an e-mail message** (Schramm-Apple paragraphs 0014 and 0083 e.g. learning about medical devices; e.g., e-mail questions and answers,) **containing the at least one potential solution to a problem associated with the remote medical device** (Schramm-Apple paragraphs 0014 and 0083 e.g. medical devices) **to the service provider**.

Schramm-Apple teaches the limitations as stated above.

It would have been obvious to one of ordinary skill in the art of medical device management, at the time of the present invention, having the teachings of Babula and Schramm-Apple before him/her, to modify the data categorization system of Babula, wherein the medical device management system would include the teachings of Schramm-Apple because that would have allowed the medical device management system to provide extensive information to physicians and healthcare providers electronically (Schramm-Apple paragraph 0032).

Response to Argument

28. On pages 8-9, Applicant argues that:

Rejection under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-11 and 13-21 under 35 U.S.C. § 102(a) as being anticipated by Babula, U.S. Publication 2003/0061071 (hereinafter referred to as "Babula"). A prima facie case of anticipation under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice

or device. In re Donohue, 226 U.S.P.Q. 619,621 (Fed. Cir. 1985). Based on this binding legal precedent, Applicants respectfully traverse this rejection.

In the present case, Babula does not anticipate Applicants' claims under 35 U.S.C. § 102 because every element of the claims is not shown in Babula. For example, claim 1 recites that the application service provider searches a solution database "using the data from the medical device and the historic data for the medical device" (emphasis added). Independent claims 9, 13, 14, 17, 18 and 21 recite generally similar subject matter. With respect to one embodiment, the present application notes: "The technique comprises using the historic data found as a result of the search of the historic data database to automatically search the database of potential solutions." Application, page 2, lines 4-6. In other words, the application service provider may use the historic data of the device (and/or related devices) to refine its search of the solution database.

In contrast, Babula does not appear to teach "using the data from the medical device and the historic data for the medical device" to search a solution database. In the Office Action, the Examiner relied on paragraph 0009 of Babula as disclosing this claimed subject matter. See Office Action, page 4. However, upon review, it appears that paragraph 0009 of Babula fails to disclose using data from the historical database as an input to search the solution database. Consequently, a prima facie case of anticipation based on the Babula reference has not been established for independent claims 1, 9, 13, 14, 17, 18 and 21, and their dependent claims. Accordingly, Applicants respectfully request that the Examiner either provide an explanation as to why the

Babula reference is believed to contain such a teaching, or withdraw the present rejection under 35 U.S.C. § 102.

Examiner disagrees because:

Babula describes "With the system state remaining at its condition just prior to accessing the service request page, image data files, log files, error files, and so forth may be identified, captured, stored and transmitted to the service facility for evaluation of potential problems in the diagnostic system" (Babula paragraph 0047 and Fig. 7).

Babula further describes "Through the service platform, therefore, the field engineer may access system configurations, historic log information, system network information, analysis logs and data, and so forth" (Babula paragraph 0042).

Babula further describes "The service facility may transmit a list of available solutions to the operations personnel. The solutions may then be downloaded or transmitted automatically or upon request by the institution" (Babula paragraph 0009).

The disclosures reasonably describe the argued limitation of "using the data (e.g. log files, error files or analysis logs and data) from the medical device (e.g. diagnostic system) and the historic data (e.g. historic log information) for the medical device (e.g. diagnostic system)".

Babula does not need to disclose anything over and above the invention as claimed in order to render it unpatentable or anticipate. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it

meets the claimed limitations. For the above reasons, it is believed that the rejections should be sustained.

29. On pages 9-10, the argument of claim 12 is directed to the similar argument of claim 1 which has been addressed above.

30. Further, the method recited in claim 9 is implemented at least in part by a hardware device which belongs to one of the statutory classes in order to send data from a remote medical device to a service center.

Conclusion

31. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SyLing Yen whose telephone number is 571-270-1306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached at 571-272-3978. The fax and phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

SyLing Yen
Examiner
Art Unit 2166

SY
March 4, 2009

/Hosain T Alam/

Supervisory Patent Examiner, Art Unit 2166